

REQUEST NO. 30

(Venue)

As you have heard throughout the trial, many of the acts alleged to have taken place occurred outside the United States. Nevertheless, American law provides that the defendant may be prosecuted here in the Eastern District of New York if you find, by a preponderance of the evidence, that the defendant was first brought into the United States in connection with these charges within the Eastern District of New York. It does not matter if the defendant was brought to the United States involuntarily or in the custody of law enforcement officers. The Eastern District of New York encompasses the boroughs of Brooklyn, Queens, and Staten Island, as well as Nassau and Suffolk Counties on Long Island.

To prove something by a preponderance of the evidence means to prove that it is more likely true than not true. It is determined by considering all of the evidence and deciding which evidence is more convincing. If the evidence appears to be equally balanced, or if you cannot say upon which side it weighs heavier, you must resolve this question against the government.

Proof by preponderance of the evidence is a lower standard than proof beyond a reasonable doubt. This is the only time in this case that you may use the preponderance of the evidence standard to find that a legal element has been established.

Authority: adapted from the charge in United States v. Al Farekh, 15-CR-268 (BMC) (E.D.N.Y.); 18 U.S.C. § 3238; United States v. Miller, 808 F.3d 607, 619 (2d Cir. 2015) (Section 3238 is “not restricted to offenses wholly committed outside the jurisdiction of the United States”).